

PREVAILED

Roll Call No. \_\_\_\_\_

FAILED

Ayes \_\_\_\_\_

WITHDRAWN

Noes \_\_\_\_\_

RULED OUT OF ORDER

## HOUSE MOTION \_\_\_\_\_

### MR. SPEAKER:

I move that House Bill 1638 be recommitted to a Committee of One, its author, with specific instructions to amend as follows:

- 1 Page 1, between lines 16 and 17, begin a new paragraph and
- 2 insert:
- 3 "SECTION 2. IC 36-7-4-616 IS AMENDED TO READ AS
- 4 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 616. (a) ~~As used in this~~
- 5 ~~section, "nonconforming use land" means land that satisfies both of the~~
- 6 ~~following:~~
- 7 (1) ~~The land is agricultural land that is used contrary to a~~
- 8 ~~comprehensive plan or zoning ordinance established for the area~~
- 9 ~~where the land is located.~~
- 10 (2) ~~The land was used for agricultural purposes before the~~
- 11 ~~adoption of a comprehensive plan or zoning ordinance for the~~
- 12 ~~area where the land is located.~~
- 13 (b) ~~Land remains as nonconforming use land as long as the land~~
- 14 ~~is used for agricultural purposes for any three (3) year period in a five~~
- 15 ~~(5) year period. The definitions used in this section apply only to this~~
- 16 ~~section.~~
- 17 (b) ~~As used in this section, "agricultural use" refers to land~~
- 18 ~~that is used for:~~
- 19 (1) ~~the production of livestock or livestock products,~~
- 20 ~~commercial aquaculture, equine or equine products, land~~
- 21 ~~designated as a conservation reserve plan, pastureland,~~
- 22 ~~poultry or poultry products, horticultural or nursery stock,~~
- 23 ~~fruit, vegetables, forage, grains, timber, trees, or bees and~~

1           apiary products, in the case of land that was not subject to a  
2           comprehensive plan or zoning ordinance before the most  
3           recent plan or zoning ordinance, including any amendments,  
4           was adopted; or

5           (2) agricultural purposes as defined in or consistent with a  
6           comprehensive plan or zoning ordinance that:

7                   (A) the land was subject to; and

8                   (B) was repealed before the adoption of the most recent  
9                   comprehensive plan or zoning ordinance, including any  
10                  amendments.

11           (c) As used in this section, "agricultural nonconforming use"  
12           means the agricultural use of land that is not permitted under the  
13           most recent comprehensive plan or zoning ordinance, including  
14           any amendments, for the area where the land is located.

15           (d) An agricultural use of land that constitutes an agricultural  
16           nonconforming use may be changed to another agricultural use of  
17           land without losing agricultural nonconforming use status.

18           ~~(c)~~ (e) A county or municipality may not, ~~through the county or~~  
19           municipality's zoning authority, do any of the following:

20                   (1) Terminate an agricultural nonconforming use ~~on~~  
21                   nonconforming use land as long as if the agricultural  
22                   nonconforming use has been maintained for at least any three (3)  
23                   year period in a five (5) year period.

24                   (2) Restrict ~~any~~ an agricultural nonconforming use. ~~on~~  
25                   nonconforming use land.

26                   (3) Require an owner of nonconforming use land to obtain any  
27                   of the following for the agricultural use of the land: for  
28                   agricultural purposes:

29                           (A) A variance for the land.

30                           (B) A special exception for the land.

31                           (C) A special use for the land.

32                           (D) A contingent use for the land.

33                           (E) A conditional use for the land.

34           (f) Notwithstanding subsection (e), this section does not  
35           prohibit a county, a municipality, or the state from requiring an  
36           agricultural nonconforming use to be maintained and operated in  
37           compliance with all:

38                   (1) state environmental and state health laws and rules; and

39                   (2) requirements to which conforming agricultural use land,  
40                   through the county or municipality's zoning authority, is  
41                   subject under the comprehensive plan or zoning ordinance.

42           SECTION 3. IC 36-7-11.1-13.1 IS AMENDED TO READ AS  
43           FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 13.1. (a) As used in this  
44           section, "nonconforming use land" means land that satisfies both of the  
45           following:

46                   (1) The land is agricultural land that is used contrary to a  
47                   comprehensive plan or zoning ordinance established for the area  
48                   where the land is located.

49                   (2) The land was used for agricultural purposes before the  
50                   adoption of a comprehensive plan or zoning ordinance for the  
51                   area where the land is located.

52           (b) Land remains as nonconforming use land as long as the land

is used for agricultural purposes for any three (3) year period in a five (5) year period. The definitions used in this section apply only to this section.

(b) As used in this section, "agricultural use" refers to land that is used for:

(1) the production of livestock or livestock products, commercial aquaculture, equine or equine products, poultry or poultry products, horticultural or nursery stock, fruit, vegetables, forage, grains, timber, trees, or bees and apiary products, in the case of land that was not subject to a comprehensive plan or zoning ordinance before the most recent plan or zoning ordinance, including any amendments, was adopted; or

(2) agricultural purposes as defined in or consistent with a comprehensive plan or zoning ordinance that:

(A) the land was subject to; and

(B) was repealed before the adoption of the most recent comprehensive plan or zoning ordinance, including any amendments.

(c) As used in this section, "agricultural nonconforming use" means the agricultural use of the land is not permitted under the most recent comprehensive plan or zoning ordinance, including any amendments, for the area where the land is located.

(d) An agricultural use of land that constitutes an agricultural nonconforming use may be changed to another agricultural use of land without losing agricultural nonconforming use status.

(e) A county or municipality may not, through the county or municipality's zoning authority, do any of the following:

(1) Terminate an agricultural nonconforming use on nonconforming use land as long as if the agricultural nonconforming use is maintained for at least any three (3) year period in a five (5) year period.

(2) Restrict any an agricultural nonconforming use. on nonconforming use land.

(3) Require an owner of nonconforming use land to obtain any of the following for the nonconforming agricultural use of the land:

(A) A variance for the land.

(B) A special exception for the land.

(C) A special use for the land.

(D) A contingent use for the land.

(E) A conditional use for the land.

(F) A permit for work under section 8 of this chapter.

(G) A certificate of appropriateness.

(f) Notwithstanding subsection (e), this section does not prohibit a county, a municipality, or the state from requiring an agricultural nonconforming use to be maintained and operated in compliance with all:

(1) state environmental and state health laws and rules; and

(2) requirements to which conforming agricultural use land,

- 1           **through the county or municipality's zoning authority, is**
- 2           **subject under the comprehensive plan or zoning ordinance."**

3           Renumber all SECTIONS consecutively.

(Reference is to HB 1638 as reprinted March 2, 1999 - Printer's  
Error.)

---

Representative Grubb



Adopted

Rejected

# COMMITTEE REPORT

MR. SPEAKER:

Your Committee of One, to which was referred House Bill 1638, begs leave to report that said bill has been amended as directed.

---

Representative Grubb